

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

In re Estate of Ferdinand E. Marcos
Human Rights Litigation

)
) MDL No. 840
) No. 86-390
) No. 86-330
)

) AFFIDAVIT OF ERIC K. YAMAMOTO
) IN SUPPORT OF JOINT PETITION
) FOR ATTORNEYS' FEES AND
) REIMBURSEMENT OF EXPENSES
)

AFFIDAVIT OF ERIC K. YAMAMOTO IN SUPPORT OF JOINT PETITION
FOR ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES

Eric K. Yamamoto, being duly sworn on oath, deposes and states:

1. I am a Professor of Law at the William S. Richardson School of Law, teaching Civil Procedure. I have assisted the class counsel for the Class of Human Rights Victims in the above-captioned cases and in the related case of Agapita Trajano et al. v. Marcos, whenever issues related to procedure and jurisdiction have arisen.

2. I make this Affidavit in support of the Joint Petition for Attorneys' Fees and Reimbursement of Expenses for services rendered to the Class and the Trajanos in this litigation. The time expended in preparing this Affidavit is not included.

3. The compensation for the attorneys who have worked on this case is wholly contingent. Any fees and reimbursement of expenses will be limited to such amounts as may be awarded by this Court.

4. During the period from the beginning of the case in March 1986 through March 1999, I performed 108 hours of work in connection with this litigation. Based on current hourly rates I

ordinarily charge to clients for work requiring this type of specialized expertise -- \$250 per hour -- the lodestar value of my time is \$27,000.

5. I have prepared a detailed itemization of the services rendered during the period for which fees are sought, which is available for the Court's review upon request.

6. All the services I have performed in connection with this litigation were reasonably necessary in the prosecution of this case.

7. There has been no unnecessary duplication of services among the attorneys who have worked on this case. In those instances when two or more attorneys participated in any matter, this participation was necessary because of the complexity of the issues involved and the time constraints that existed.

8. My particular role in this litigation has focused on the jurisdictional and procedural issues presented by this litigation. These issues include the service of process, subject-matter jurisdiction, personal jurisdiction, default-judgment procedures, class-action certification, compensatory damages, injunctions to freeze assets, attachment of bank accounts, enforcement of judgments, and ability to enforce judgments against bank subsidiaries.

9. The total lodestar for my work on this case is \$27,000 for attorney's fees. I agree with the memoranda filed by cocounsel in this case explaining that the fee award in this case should be based on the benchmark used in the Ninth Circuit (25% of the amount awarded to the plaintiffs) or on a substantial multiplier of the lodestar based on the palpable risk involved in this case and the numerous innovative substantive and procedural legal principles developed during the course of the 13 years of this trailblazing, arduous, and combative litigation.

10. Attached hereto is my resume, which provides my background and experience.



Sworn to and Subscribed before me
this 17 Day of March 1999.

David R. Winkberger

Eric K. Yamamoto

Eric K. Yamamoto

State of California
County of Alameda

CURRICULUM VITAE

ERIC KEN YAMAMOTO

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TEACHING

- 1999
(Spring) Visiting Professor of Law, Boalt Hall Law School, University of California at Berkeley.
- 1985-present Professor of Law, William S. Richardson School of Law, University of Hawaii at Manoa (Civil Procedure, Advanced Procedure/Complex Litigation, Administrative Law, Legal Methods, Civil Rights, Race, Culture and Law, Asian Americans In U.S. Law).
- 1998
(Spring) Visiting Fellow, Japanese American Endowed Chair, UCLA Asian American Studies Center.
- Fall 1995 Visiting Professor of Law, Santa Clara University Law School.
- July 1986 Instructor: Civil Procedure Seminar in Truk for state and federal judges from the Federated States of Micronesia and Palau.

HONORS

- 1998 Presidential Citation for Meritorious Teaching, University of Hawaii (University-wide award).
- 1997 Outstanding Law Professor, William S. Richard School of Law: Award for excellence in law teaching and scholarship.
- 1997 Ninety Fabulous Faculty, University of Hawaii (University-wide recognition of "highly-acclaimed" faculty).
- 1995 Outstanding Law Professor, William S. Richardson School of Law.
- 1994 Korematsu Civil Rights Award.
- 1990 Presidential Citation for Meritorious Teaching, University of Hawaii.

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- 1986 Outstanding Law Professor, William S. Richardson School of Law.
- 1975 Phi Beta Kappa Honor Society.
- 1975 Hormann Prize: Award for outstanding University of Hawaii social science research project.
- 1973 Phi Kappa Phi Honor Society.
- 1972 University of Hawaii Departmental Service Award.

EDUCATION

- 1978 Juris Doctor Degree, Boalt Hall School of Law, University of California at Berkeley.
- 1975 Bachelor of Arts Degree, University of Hawaii at Manoa, Liberal Studies Program: Hawaiian Studies/Sociology.
- 1970-1973 New College Program, University of Hawaii at Manoa (experimental program in humanistic studies).

PUBLICATIONS

Books

INTERRACIAL JUSTICE: CONFLICT AND RECONCILIATION IN POST CIVIL RIGHTS AMERICA (New York University Press 1999).

THE JAPANESE AMERICAN INTERNMENT AND REDRESS--A CRITICAL LEGAL INQUIRY (with Chon, Izumi, Kang and Wu) (in progress).

Articles and Book Chapters

Racial Reparations: Japanese American Redress and African American Claims, 40 Bost. C. L. Rev. (1998), 19 Bost. C. Third World L. J. (1998) (in press).

Justice for the Justice: A More Complex View of Ruth Bader Ginsburg's Jurisprudence of Process and Procedure (with E. Yip), 20 U. Haw. L. Rev (1998) (in press).

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The Politics of Theory in Action and Policy, Miami L. Rev. (1998),
Tex. Hisp. L. Rev. (1998) (in press).

Healing the Wounds?: The Final Report of South Africa's Truth and
Reconciliation Commission (with Serrano), (Chapter), in WHEN
SORRY ISN'T ENOUGH: REDRESS FOR HISTORIC INJUSTICE
(R. Brooks ed.) (NYU Press 1999) (in press).

Critical Coalitions (with J. Su), In CRITICAL RACE THEORY AT
THE CROSSROADS (A. Harris and F. Valdes eds., 1998) (Yale Press)
(in press).

Critical Race Praxis: Race Theory and Political Lawyering Practice in
Post-Civil Rights America, 95 Mich. L. Rev. 821-901 (1997).

Race Apologies, 1 Iowa J. Gender, Race & Just. 47-88 (1997).

Conflict and Complicity: Justice Among Communities of Color, 2
Harv. Lat. L. Rev. 495-501 (1997).

Alternative Dispute Resolution: Where Have the Critics Gone?, 36
Santa Clara L. Rev. 1055-1067 (1996).

Foreword: We Have Arrived, We Have Not Arrived, 3 Berkeley Asian
L. J. 1-6 (1996).

Rethinking Alliances: Agency, Responsibility and Interracial Justice, 3
UCLA Asian Pac. L. J. 33-74 (1995).

The Significance of "Local" (chapter) in SOCIAL PROCESS 138-150
(2d ed., Peter Manicas ed., 1995).

Republished from Journal of Social Process 101-116 (1979).

(Book Review) EARLY WOMEN LAWYERS OF HAWAII, (Mari
Matsuda ed., 1993), 8 J. of Western Legal Hist. 294-96 (1995).

Courts and the Cultural Performance: Native Hawaiians' Uncertain
Federal and State Law Rights to Sue (with Kalama and Haia), 16 U.
Haw. L. Rev. 1-83 (1994) (lead article).

Procedural Politics and Federal Rule 26: "Opting Out" of Mandatory
Disclosure (with Dwight), 16 U. Haw. L. Rev. 167-201 (1994).

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The Paradise Tax (with Adler, Punu and Roth), in PRICE OF PARADISE 117-124 (R. Roth ed., 1993).

Friend, Foe or Something Else: Social Meanings of Reparations, 20 Denver J. Int'l Law & Pol. 223-242 (1992).

Restructuring For Justice: Redressing Past Wrongs, in RESTRUCTURING FOR WORLD PEACE 182-196 (Majid Tehranian, ed., 1992) (Hampton Press).

Rule 11 and State Courts: Panacea or Pandora's Box (with Hart), 13 U. Haw. L. Rev. 58-108 (1991).

Republished in 42 Def. L.J. 185-235 (1992), (lead article vol. 2).

Efficiency's Threat to the Value of Accessible Courts for Minorities, 25 Harv. Civ. Rights-Civ. Lib. L. Rev. 341-429 (1990).

Summary Judgment At the Crossroads: The Impact of the Celotex Trilogy (with Leonard and Sodersten), 12 U. Haw. L. Rev. 1-38 (1990) (lead article).

Case Management and the Hawaii Courts: The Evolving Role of the Managerial Judge in Civil Litigation, 9 U. Haw. L. Rev. 395-456 (1987) (lead article vol. 2).

National Security and Civil Liberties, 24 Court Review 16 (1987).

Korematsu Revisited: Correcting the Injustice of Extraordinary Government Excess and Lax Judicial Review--Time For A Better Accommodation of National Security Concerns and Civil Liberties, 26 Santa Clara L. Rev. 1-62 (1986) (lead article).

Other Publications

Will Reparations Buy Justice for All?, Et al. 34-36 (Fall/Winter 1995).

Summing Up, Courts in the 21st Century, Proceeding of Judicial Foresight Congress (1993).

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Ethics and Engagement in Legal Education, in In Celebration of Teaching, 61-63 (Center for Teaching Excellence 1991).

Resolving Disputes with Local Government Authorities in Pacific Rim Countries: The Hawaii Sandy Beach Controversy, The Town Planning and Local Government Guide 1-10 (January 1990).

Pending Procedural Reform in Hawaii's Courts—New Civil Rules 11, 16 and 26: Benefits and Problems of Active Case Management, 22 Hawaii Bar Journal 1-6 (1989).

CONFERENCE PRESENTATIONS

October 1998	Racial Reparations, Asian Americans and Law National Conference.
May 1998	Theory, Policy and Practice, LatCrit III Conference.
January 1998	Law Professors' (Re)Action to Proposition 209, Robert Cover Workshop, Society of American Law Teachers.
March 1998	Critical Race Praxis, Western Law Teachers of Color Conference.
November 1997	Critical Coalitions, Critical Race Theory Conference.
October 1997	Scholarly Activism, Asian Americans and Law National Conference.
April 1997	Repairing the Breach, Facing History, International Human Rights Conference, Harvard Law School and School of Education.
October 1996	Race Apologies, Iowa Law School Conference on Gender and Racial Justice.
October 1996	Faculty Retention, Asian Americans and Law National Conference.
June 1996	Conflict and Complicity, LatCrit Theory Conference.
January 1996	The Race in Environmental Racism, Environmental Law Section, American Association of Law Schools Annual Conference.
June 1995	ADR and the Impacts of Privatization of Dispute Resolution, American Association of Law Schools Civil Procedure Conference.

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March 1995	Institutional Politics, Western Law Teachers of Color Conference.
February 1995	Interracial Justice, Law and Identity Theory Workshop.
December 1994	Integrating Indigenous Customs, Traditions and Practices with Western Law, Native Hawaiian Sovereignty Symposium.
December 1994	Summary Judgment and State Courts, 1994 Hawaii State Judicial Conference.
October 1994	Interracial Justice: Asian Americans, Native Hawaiians and The Inversion of Foreignness, Asian Americans and Law National Conference.
March 1994	Critique of Essay on Citizenship Theory and Immigration, Western Law Teachers of Color Conference.
October 1993	Teaching Race, Gender and Sexual Orientation Issues in Law School, Society of American Law Teachers, Teaching Conference.
June 1993	Critique of Commentary on <u>Mabo II</u> and The Doctrine of Aboriginal Title, Critical Race Theory Conference.
March 1993	Race, Culture and Court Process, Western Law Teachers of Color Conference.
March 1992	Asian Americans and Reparations, UCLA Conference on Civil Liberties.
August 1991	The Internment Cases, Hawaii Educators Conference on Bill of Rights.
June 1991	World Political Alternatives & Peace with Freedom, Matsunaga International Peace Conference.
January 1991	Courts In the 21st Century, Hawaii Judicial Foresight Congress.
November 1990	Minorities and Law Schools, National Asian Pacific Americans Bar Association, Annual Conference.
November 1990	Sanctions for Frivolous Filings: Rule 11's Promise and Pitfalls (keynote speaker), 1990 Hawaii State Judicial Conference.

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September 1990	Social Justice and Human Rights, Matsunaga Peace Institute Community Conference.
August 1989	Challenging Decisions By Government, Semi-government and Local Government Bodies--How to Challenge and How to Resist, Comparative Government Law Session of 1989 ABA Convention.
November 1988	Procedural Reform In Hawaii's Courts (keynote speaker), 1988 Hawaii State Judicial Conference.
November 1987	On Teaching Civil Liberties, Conference for Teaching Gifted and Talented Students.
October 1986	National Security and the Constitution: <u>Korematsu</u> Revisited (keynote speaker), American Judges Association, Annual Conference.

SELECTED OTHER PRESENTATIONS

November 1998	ADR: Where Have the Critics Gone?, Boalt Hall Alumni.
October 1998	What's Critical About Race Theory (with L. Guinier and G. Torres), Distinguished Lecture Series, University of Hawaii.
May 1998	What Next? The Legacy of Japanese American Redress, UCLA Asian American Studies Center.
September 1997	Facing History, Facing Ourselves, Pacific Asian American Ministries (Keynote address), United Church of Christ Regional Conference.
May 1997	Culture, Law and Justice, Hawaii Justice Foundation, Issues Forum.
March 1997	Revisiting the Buffalo Creek Disaster, Environmental Law Society Forum, University of Hawaii Law School.
November 1995	Reparations and the Future of Civil Rights, APILSA Seminar, Santa Clara University Law School.
October 1995	Transforming Legal Services, Asian Law Caucus Forum.
July 1994	Crime and Justice, "Price of Paradise" Community Issues Forum.
April 1994	Rethinking Legal Services, Hawaii Justice Foundation, Issues Forum.

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February 1994	Amended Rule 26 and Mandatory Disclosure, Pacific Law Institute Seminar.
February 1993	Differences and Similarities--The Internment and the Overthrow, Japanese American Citizens League Day of Remembrance.
July 1992	New Approaches: Sanctions and Discovery, Hawaii County Bar Association.
March 1992	Martial Law In Hawaii, Judicial History Center Community Presentation.
April 1991	Summary Judgment at the Cross-Roads, State Attorney Generals Office and Legal Aid Society.
March 1991	Reflections on New Rule 11, Hawaii County Bar Association.
January 1991	New Rule 11 and the Hawaii Courts, Pacific Law Institute Seminar.
February 1989	Summary Judgment Reform, Pacific Law Institute Seminar.
September 1987	Keynote address: National Security and Civil Liberties: <u>Korematsu</u> Revisited, Bicentennial Celebration of U.S. Constitution.
March 1987	Keynote address: Law and the Public Interest, Annual Meeting and Fundraiser of Advocates for Public Interest Law.

PROFESSIONAL ACTIVITIES

1998	Member, American Law Institute (international procedure project).
1997-98	Committee Member, Academic Freedom and Tenure Committee, American Association of Law Schools.
1997	Committee Member, Hawaii Supreme Court's Committee on Attorney Specialization.
1997 (since 1996)	Board of Directors, Society of American Law Teachers.
1997 (since 1989)	Arbitrator, Hawaii Court-Annexed Arbitration Program.

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1997 (since 1991)	Senior Legal Advisor, Native Hawaiian Advisory Council.
1996	Participant, Citizens Justice Task Force, Hawaii State Bar Association
1996-1993	Editorial Board, Journal of Legal Education.
1996-1995	Local Rules Committee, United States District Court for District of Hawaii.
1995	Local Rules Review Project, Ninth Circuit Court of Appeals (reporter on Civil Rules for Hawaii District Court)
1995-1994	Appellate ADR Task Force, Hawaii State Judiciary.
1995-1994	Humanities Scholar, Judicial History Center Project on Hawaiian Sovereignty.
1995-1994	Board of Directors, Hawaii Justice Foundation.
1995-1992	Hawaii State Judiciary's Advisory Panel on Minorities in the Justice System (Committee on Gender and Other Fairness).
1995-92, 1990	Board of Directors of Advocates for Public Interest Law (Faculty Advisor 1990-91, 1993-94).
1994-1990 1982-1979	Board of Directors, Legal Aid Society of Hawaii.
1993-1992	Executive Committee, Civil Procedure Section, American Association of Law Schools.
1993-1992	Humanities Scholar, Judicial History Center Project on Martial Law.
1992-1990	Executive Committee and University Council, Spark M. Matsunaga Peace Institute.
1991-1985	Board of Directors of Native Hawaiian Legal Corporation.
1990	Hawaii State Judiciary's Committee on Pattern Jury Instructions.
1990-1987	Litigation Advisory Board to Native Hawaiian Legal Corporation.

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1988-1986 Advisor, Hawaii Supreme Court Civil Rules Committee.

1987-1986 Hawaii Supreme Court's Working Committee for Establishment of an International Commercial Arbitration Center.

1987-1981 Hawaii Pro Bono Law Project.

1983-1978 Counsel, nonprofit community organizations. (Women's Health Center; Alu Like (Oahu Division).)

PRACTICE

Public Interest

1998 Special Deputy Attorney General (representing Hawaii Civil Rights Commission), Jeyet v. Tseu (reconsideration of Supreme Court ruling recognizing new tort of negligent investigation against Commission).

1997-1986 Procedure Consultant to class plaintiffs, In Re: Ferdinand Marcos Human Rights Litigation (four billion dollar class action judgment against Marcos estate for torture and murder of political dissidents in the Philippines).

1997 Co-counsel to Haunani Apoliona, Apoliona v. Akaka (challenge to exclusion of trustees-elect to Office of Hawaiian Affairs).

1996 Co-counsel to Native Hawaiian Advisory Council and Na Loio Na Kanaka, Amicus Brief to U.S. Supreme Court, Yniguez v. Arizona (challenge to English Only law).

1996-1995 Consultant to Native Hawaiian Advisory Council in representation of Office of Hawaiian Affairs, Waiahole Ditch Water Controversy (Hawaiian customary claims to water).

1994-1992 Consultant to Bruce Yamashita, Yamashita v. United States (racial harassment claim against Marine Officer Candidate School officers and staff).

1993 Co-counsel to Charles Ka'ai'ai, Ka'ai'ai v. Drake (Hawaiian Homesteaders class action challenging Hawaiian Homes Commission exclusion of an independent representative for trust beneficiaries on Claims Settlement Task Force).

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1990 Co-counsel to Manuel Fragante, Fragante v. City & County (appeal to U.S. Supreme Court on Filipino accent discrimination Title VII claim).

1984-1983 Co-counsel to Fred Korematsu, Korematsu v. U.S. (coram nobis litigation reopening WWII Japanese-American internment case, Korematsu v. U.S.).

Private

1998 Consultation on complex litigation cases, Rule 11
(since 1986) sanction proceedings, arbitration procedure, civil rights cases.

1983-1978 Attorney: Case & Lynch, Honolulu, Hawaii. (Civil litigation, with
Jan.-July 1985 emphasis on constitutional, commercial and products liability litigation.)

Fall 1977 Law Clerk: Judges George Phillips and Betty Barry-Deal, Superior Court of Alameda County, California (trial and appellate).

Spring 1977 Law Clerk: Minami, Tomine & Lew, Oakland, California.

Summer 1976 Intern: Juvenile Probation Division, First Circuit Family Court of Hawaii.

1975 Committee Clerk: House Committee on Higher Education, Hawaii State Legislature.